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STATE OF MINNESOTA DISTRICT COURT

COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

Case Type: Employment

Starr Suggs,

Plaintiff,

vs.

Minnesota Peace Officers Standards and Training Board,

Defendant.

Honorable Sara R. Grewing
Court File No. 62-CV-22-2981

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

Defendant Minnesota Peace Officer Standards and Training (POST) Board (hereinafter "Defendant"), by and for its Answer to the Complaint[1] of Plaintiff Starr Suggs ("Plaintiff"), hereby states and alleges as follows:

ANSWER

Except as hereinafter expressly admitted, qualified, denied, or otherwise answered, Defendant denies each and every allegation in the Amended Complaint.

INTRODUCTION

1. POST is an administrative body of the State of Minnesota that sets regulations and controls the training and licensing of police officers. POST is also authorized to receive, manage, and process complaints from the public about officer behavior that violates the Standards of Conduct. POST is funded through surcharges on certain criminal and traffic offenses.

ANSWER: POST admits that it is an administrative body of the State of Minnesota. POST states that its authority and responsibilities is set by statute, Minn. Stat. §§626.84-.892, and denies any

[1] This is an answer to the "Complaint" which is document number 9, filed on June 21, 2022.

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allegations to the extent they are inconsistent with those statutes. POST further affirmatively states that it is funded through the general fund.

2. Plaintiff Starr Suggs is a Black/African-American woman, who was an exemplary employee of POST for 28 years. Beginning in about 2016, she began to experience more overt racist behavior on the part of POST leadership, including for example, a display of Confederate soldier models in POST's Executive Director's office, derogatory statements made about Black state leaders, the display of a Thin Blue Line "Blue Lives Matter" flag in her co-worker's office, and calling supporters of the Black Lives Matter movement "ignorant savages" after the murder of George Floyd. Plaintiff also faced discrimination: she was treated differently from her white counterparts and was continuously held to a higher standard. The discriminatory practices were not limited to employment, but also applied to the general public whom POST serves. Plaintiff witnessed POST employees refer to the complaints made by the Black civilians as the "negro files" and complaining about their manner of speaking.

ANSWER: POST admits that Plaintiff is a Black/African-American woman. POST states she was employed at POST from October 1994 until her resignation on March 16, 2022. POST otherwise denies the allegations.

3. Plaintiff tried to address the discrimination directly by internally reporting the incidents and her discomfort with what she was experiencing. Instead of taking Plaintiff's multiple complaints of discrimination seriously and rectifying the discriminatory and hostile work environment, POST retaliated against Plaintiff. She was reprimanded precisely *because* she complained of discrimination. When the Minnesota Department of Human Rights found probable cause that POST retaliated against Plaintiff, the retribution against her was swift. The following month she was stripped of most of her duties, leaving her isolated and humiliated. A few months later her co-workers made racist and threatening comments about protesters outside the POST office—protestors who included Black mothers who lost children to police violence, who were peacefully demanding justice for Amir Locke. Plaintiff begged her POST coworkers to stop, but they did not. Not long after that, Plaintiff, as a Black mother, could no longer tolerate working for an organization that in her words was "at least partly responsible for the climate in which Black men have lost their lives at the hands of police." She saw the writing on the wall that termination was imminent if POST could not get her to quit. She also knew that she could no longer tolerate the racist, hostile, and retaliatory workplace promoted by POST's highest management. Plaintiff had no choice but to leave that toxic environment and resign.

ANSWER: POST admits that Plaintiff made a report of discrimination. POST states that reports were investigated internally, which investigation speaks for itself. POST further states that the Minnesota Department of Human Rights investigated Plaintiff's report of discrimination and determined there was no probable cause to believe discrimination occurred. Plaintiff appealed that

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determination to the MDHR Commissioner, who affirmed the determination of no probable cause. POST admits that MDHR found probable cause that POST retaliated against Plaintiff. POST refers to the MDHR finding and denies any allegations inconsistent with it. POST otherwise denies the allegations in the paragraph.

PARTIES

4. Plaintiff is a Black/African-American woman, who resides in Hennepin County, Minnesota.

ANSWER: Admit.

5. Defendant POST is an administrative body of the State of Minnesota with its principal place of business located at 1600 University Ave., Suite 200, St. Paul, Minnesota 55104.

ANSWER: Admit.

6. At all relevant times, Suggs and POST were "employee" and "employer," respectively, within the meaning of the Minnesota Human Rights Act ("MHRA"), Minn. Stat. § 363A.03, subds. 15 and 16.

ANSWER: Deny. POST states Plaintiff was employed at POST from October 1994 until her resignation on March 16, 2022.

JURISDICTION AND VENUE

7. This is an action brought to remedy POST's discriminatory conduct directed at Suggs on the basis of her race and retaliatory conduct after she reported discrimination.

ANSWER: This allegation consists of Plaintiff's characterization of her own action, to which no response is required. POST denies it engaged in discriminatory or retaliatory conduct.

8. Suggs invokes the jurisdiction of this Court because the violations of law described in this Complaint occurred in the State of Minnesota and involve Minnesota law.

ANSWER: This allegation consists of Plaintiff's characterization of her own action, to which no response is required. POST denies any violations of law.

9. At all relevant times, Suggs worked at POST, at 1600 University Ave., Suite 200, St. Paul, Minnesota 55104.

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ANSWER: Deny. POST states Plaintiff was employed at POST from October 1994 until her resignation on March 16, 2022.

10. Venue is appropriate in this Court pursuant to Minn. Stat. § 542.09, because POST has an office or business place within the borders of Ramsey County.

ANSWER: Admit.

FACTS

1. Plaintiff is a Black/African-American woman. She started her employment in 1994, and has dedicated 28 years to POST. In 2005, she was promoted to the Office Administrative Assistant Intermediate and has been in that role until her constructive discharge on March 16, 2022.

ANSWER: POST admits the first sentence. POST states that Plaintiff was employed at POST from October 1994 until her resignation on March 16, 2022, and otherwise denies the allegations in the second sentence. Regarding the allegations in the third sentence, POST states her title was Office and Administrative Specialist Intermediate, as of September 16, 2005. POST denies the allegation of constructive discharge.

2. Throughout her 28 years at POST, Plaintiff diligently served the public and was an exemplary employee. Because she worked in the front of the office, she was often referred to as the "face" of POST.

ANSWER: POST denies the first sentence. Regarding the allegations in the first sentence, POST admits she worked in the front of the office; POST lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and therefore denies.

3. Plaintiff was the only long-term Black employee at POST. Only a handful of other people of color worked there, but their tenures were short.

ANSWER: Deny as vague.

4. In 2015, the Board appointed Nathan Gove as an Executive Director; and at the end of 2017 the new Assistant Executive Director Erik Misselt was hired.

ANSWER: Admit.

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5. After starting to report to the new Directors, Plaintiff noticed a drastic change in her work environment. As early as 2016, she experienced microaggressions and differential treatment, culminating in discriminatory, racist, and hostile comments and remarks.

ANSWER: POST lacks sufficient information or knowledge to admit or deny what Plaintiff noticed and felt she experienced and therefore denies.

Plaintiff Witnesses Race Discrimination at POST

6. In 2016, Plaintiff noticed that Executive Director Gove displayed 8 to 12-inch models of Confederate soldiers in his office. When she first noticed the display, Suggs complained to Human Resources that the Confederate models made her feel uncomfortable.

ANSWER: POST lacks sufficient information or knowledge to admit or deny what Plaintiff noticed in 2016 and therefore denies. POST lacks sufficient information or knowledge to admit or deny the second sentence and therefore denies. POST states that, at the time, the Department of Public Safety provided human resources for POST, per statute, and human resources personnel were not employees of POST or supervised under POST.

7. Gove left the Confederate models on display for another three months. The continued open display of the Gove's support for the Confederacy made Plaintiff, the only Black employee, feel unsafe at POST and created a hostile work environment.

ANSWER: POST lacks sufficient information or knowledge to admit or deny the first sentence and the allegations about what Plaintiff felt, and therefore denies. POST denies it created a hostile work environment.

8. After Erik Misselt became Assistant Executive Director, Plaintiff also heard Gove, Misselt, and the former Continuing Education Coordinator Robert Hawkins speak negatively about the Department of Public Safety Commissioner John Harrington, the Minneapolis Police Chief Medaria Arradondo, the Minnesota Attorney General Keith Ellison as well as the appointment of Clarence Castile to the POST Board. Among other things, POST leadership referred to these individuals, who all happen to be Black men, as "stupid" and "incapable." Plaintiff never heard the POST leadership speak in a similar manner about departments with white leaders.

ANSWER: POST lacks sufficient information or knowledge to admit or deny the allegations in the first and third sentences and therefore denies. POST denies the second sentence.

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9. Furthermore, Plaintiff heard Hawkins and Standards Coordinator Angie Rohow refer to the complaints against officers made by Black members of the public as the "negro files."

ANSWER: Deny.

10. In March of 2018, a Black civilian came in to file a complaint against an officer. Misselt, upon learning that the person was Black, first delayed meeting with him for an hour and when the man asked to use the bathroom, Misselt stated, "I bet he's in the bathroom shooting up drugs," perpetuating a stereotype that Black people are frequent drug users. Misselt proceeded to assist the Black civilian in a very demeaning manner, showing his irritation with the Black man's complaint about an officer. Plaintiff did not observe Misselt make such statements about white members of the public or treat white civilians in the same demeaning manner.

ANSWER: Deny.

11. In addition, on numerous occasions from 2018 until 2020, Rohow openly complained about callers who spoke African American Vernacular English (AAVE), stating that she could not understand them. Misselt often affirmed her negative remarks with "Roger that." This made Plaintiff feel like she did not belong at POST.

ANSWER: Deny and POST affirmatively states Rohow began working at POST in approximately April 2020.

12. As a result of open criticism of AAVE at POST, Plaintiff's only Black co-worker at the time, an Office & Administrative Specialist ("OAS") who was employed from July 2018 until September 2019, confided in Plaintiff that POST's discriminatory sentiments toward Black members of the public made her feel "less-than" human and that she tried to adjust her speech at the office to sound more "Caucasian."

ANSWER: POST lacks sufficient information or knowledge to admit or deny what the co-worker told Plaintiff and therefore denies.

13. In 2018 and 2019, Continuing Education Coordinator Michele Haggberg told Plaintiff that the rules did not apply to her because she was "white and privileged." Plaintiff brought her concerns about Haggberg's statements to Misselt, who told her to address it with Haggberg herself. Plaintiff then had to explain that she was making a complaint, and it was his job as a Director to address such issues, but he never investigated or responded to Plaintiff's complaint.

ANSWER: POST lacks sufficient information or knowledge to admit or deny what Haggberg told Plaintiff and therefore denies. POST states that it investigated and responded to all complaints

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of discrimination or workplace policy violations brought to the attention of the director and denies any allegations to the contrary. POST denies any remaining allegations.

14. The overt and continuous scorn and discrimination of Black people by her co-workers and supervisors created a hostile work environment, making it difficult for Plaintiff to perform her duties.

ANSWER: Deny.

15. Plaintiff also observed that Misselt was unfairly scrutinizing her and her Black colleague's work as compared to their white counterparts. Despite giving Plaintiff satisfactory performance reviews, Misselt frequently pointed out minor mistakes which oftentimes were outside of her control. Misselt additionally often wrongfully blamed Plaintiff and the OAS for mistakes white employees made. Such behavior was in contrast to the way Misselt treated white employees.

ANSWER: POST denies that Misselt unfairly scrutinized her work. POST admits that Plaintiff often made mistakes with her work, which Misselt pointed out. POST denies the remaining allegations.

16. Moreover, the OAS was prohibited from performing her job while listening to the Minnesota Public Radio with her headphones on. At the same time, white employees, including Misselt, often had music on in their offices with their doors open. Plaintiff remembers Haggberg listening to rapper DMX's "Party Up" song with her door open. To Plaintiff's knowledge, Haggberg was not asked to lower the volume, let alone reprimanded for blaring such a vulgar song while on duty.

ANSWER: POST denies the first and second sentences as vague. POST lacks sufficient information or knowledge to admit or deny the third and fourth sentences and therefore denies.

17. Further illustrating the intolerant and discriminatory environment at POST, Plaintiff not only experienced microaggressions directed at her, but also witnessed POST employees do the same to people of marginalized identities:

a. Plaintiff was once told by a co-worker that she could not see her in a relatively well-lit room, referring to Plaintiff's skin color.

b. Whenever a person spoke with any accent, Misselt with irritation stated that it sounded "Chinese" to him.

c. Plaintiff was also told by a co-worker that Gove did not like employees wearing hoodies due to his prior experience in law enforcement.

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d. Plaintiff also overheard a co-worker make fun of a transgender employee at the Minnesota IT Services, stating that she did not know if she was speaking to a man or a woman. This joke was shared by Misselt, who laughed and rolled his eyes.

e. Gove once approached Plaintiff and out of nowhere told her that his favorite movie was Django Unchained because it was about a "slave buff."

ANSWER: POST lacks sufficient information or knowledge to admit or deny the allegations in subparagraphs a, c, and d regarding what co-workers told Plaintiff or what Plaintiff overhead them say and therefore denies. POST denies the remaining allegations in subparagraph d relating to Misselt. POST denies the allegations in subparagraph b. POST lacks sufficient information or knowledge to admit or deny the allegations in subparagraph e and therefore denies.

Plaintiff reports discrimination and POST retaliates

18. At the end of 2018 and beginning of 2019, Plaintiff started to report Misselt's discrimination and promotion of a hostile work environment to the Human Resources Director Yvonne Shorts Lind, the Director of Internal Affairs/Affirmative Action Lynn Mueller, and POST Board Chair Kelly McCarthy.

ANSWER: POST denies that Misselt engaged in discriminatory conduct or promoted a hostile work environment. POST admits that Plaintiff made reports of discrimination or harassment. POST states that these reports were investigated internally and by MDHR and were not substantiated.

19. In February 2019, Plaintiff and the OAS filed a complaint of race and sex discrimination with the Department of Public Safety, Internal Affairs Division. The investigation concluded that Misselt's comments "did not show culture awareness or sensitivity" and recommended that he and Gove "must work together to address the lack of trust and the perceptions of inequity with all employees, but especially [Plaintiff]."

ANSWER: POST refers to the investigation and denies any allegations to the extent they are inconsistent with the investigation. POST affirmatively states that the investigation concluded that the alleged violations against Gove and Misselt could not be sustained.

20. In the spring of 2019, Misselt retaliated against Suggs by designating specific times for Suggs and the OAS to take lunch breaks and prohibiting them from eating at their desks. This lunch break requirement applied only to the two Black employees who reported discrimination, while the other employees, who had not complained, were still allowed to take lunch freely and to

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continue to eat at their desks. In comparison, Haggberg, a white counterpart, was allowed to have a flexible lunch schedule.

ANSWER: Deny.

21. On June 12, 2019, Misselt reprimanded the OAS for allegedly spreading rumors about him breaking Plaintiff's office chair. He claimed that Plaintiff accused her of starting the gossip (which was a lie). When Plaintiff confronted Misselt in this lie, he immediately became defensive.

ANSWER: POST admits that Plaintiff confronted Misselt on June 12, 2019 and accused him of lying about an incident involving an office chair. POST otherwise denies Plaintiff's characterization of the incident.

22. Plaintiff in response stated that she and the OAS were being treated differently because of their race and that this was discrimination. Misselt became irritated with Plaintiff when she refused to discuss her protected report alone in his office and behind closed doors.

ANSWER: POST admits that Plaintiff, on June 12, 2019, accused Misselt of race discrimination in an open office area and that Plaintiff declined to have the conservation in private. POST otherwise denies Plaintiff's characterization of the incident.

23. A few weeks later, on July 2, 2019, Gove issued Plaintiff a Letter of Expectation stating words to the effect "you can't just go and call people racist." The letter stated that Suggs engaged in "unprofessional, accusatory, or disrespectful conduct" and falsely accused her of having the wrong demeanor or tone when speaking to Misselt.

ANSWER: POST admits that Gove issued Plaintiff a letter of expectation. POST refers to the letter and denies any allegations to the extent they are inconsistent with the letter.

24. On July 23, 2019, Plaintiff filed a charge with the Equal Employment Opportunity Commission ("EEOC") and the Minnesota Department of Human Rights ("MDHR") alleging race, age, and sex discrimination as well as retaliation.

ANSWER: Admit.

25. On August 19, 2019, Misselt issued Suggs an annual review, rating her as "Needs Improvement" in the areas of Integrity and Professionalism. Misselt explicitly reprimanded her for "accus[ing] me of racial discrimination and retaliation" and for refusing to move the conversation to a private location.

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ANSWER: POST refers to the annual review and denies any allegations inconsistent with its text.

26. The direct and immediate retaliation further intensified the hostile work environment, made it harder for Plaintiff to perform her job, and interfered with the privileges of her employment.

ANSWER: Deny.

27. In September 2019, the OAS—Plaintiff's only Black colleague—resigned from her employment at POST because she was no longer able to endure Misselt's discriminatory and retaliatory treatment.

ANSWER: POST admits that a Black colleague resigned. POST denies the allegations that there was discriminatory or retaliatory treatment.

28. In January 2020, Misselt became the new Executive Director, upon Gove's retirement.

ANSWER: Admit.

Discriminatory Sentiments at POST Intensify after the Murder of George Floyd

29. Anti-Black sentiments at POST worsened after the murder of George Floyd on May 25, 2020. Shortly after the murder, Hawkins told Plaintiff that Chauvin had a "real Buckwheat moment," Plaintiff believes Hawkins was referring to the Buckwheat character from the Little Rascals and a term often used to demean Black people.

ANSWER: POST denies the first sentence. POST lacks sufficient information or knowledge to admit or deny the remaining allegations and therefore denies.

30. In addition, Plaintiff witnessed Hawkins and Rohow refer to Black Lives Matter supporters as "terrorists," "stupid animals," and "ignorant savages." As a Black person, Plaintiff was offended by these discriminatory statements, making her feel like she did not belong at POST due to her race.

ANSWER: POST lacks sufficient information or knowledge to admit or deny the allegations and therefore denies.

31. In the summer of 2020 and in 2021, Suggs heard Hawkins, Misselt, and former Assistant Executive Director Jeff Winger make comments denying that police ever racially profile Black men.

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ANSWER: POST denies as vague. As stated, POST lacks sufficient information or knowledge to admit or deny the allegations and therefore denies.

32. After the January 6, 2021, Capitol Insurrection, Rohow hung the Thin Blue Line American flag in her office showing her support for the Blue Lives Matter movement. The display of the flag right after the Insurrection made Suggs feel unsafe at POST, and this in combination with Rohow's comments, such as the "negro files" and "ignorant savages," made Suggs believe that Rohow was displaying her support for white supremacy.

ANSWER: POST denies the allegations in the first sentence, and affirmatively states the employee hung artwork containing a thin blue line flag on or around June 24, 2020, and removed it in February 2021. POST lacks sufficient information or knowledge as to what Plaintiff felt or believed and therefore denies the second sentence.

33. Although Suggs requested the flag to be removed in January, Rohow displayed it until April 2021.

ANSWER: POST lacks sufficient information or knowledge as to whether and when Plaintiff requested the flag be removed and therefore denies that allegation. POST admits the flag was taken down in early 2021, before the end of April 2021, but lacks sufficient information or knowledge as to the exact date it was taken down.

34. POST's continued anti-Black sentiment and now recurring support of white supremacy in the office further complicated Plaintiff's performance of her job duties and responsibilities.

ANSWER: Deny.

MDHR Concludes that POST Retaliated against Suggs; POST Continues to Retaliate.

35. On November 3, 2021, MDHR determined that Probable Cause existed to conclude that POST engaged in retaliation.

ANSWER: Admit. POST affirmatively states that the Minnesota Department of Human Rights investigated Plaintiff's report of discrimination and determined there was no probable cause to

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believe discrimination occurred. Plaintiff appealed that determination to the MDHR Commissioner, who affirmed the determination.

36. Upon learning of MDHR's finding, POST's retaliation against Plaintiff continued and intensified.

ANSWER: Deny.

37. In December 2021, Suggs was informed she was no longer responsible for processing Continued Education Credits as well as officers' license renewals—the tasks Plaintiff performed for the past five years, which also made up a significant part of her daily responsibilities. The duties were assigned to white employees and caused Plaintiff to be isolated and humiliated.

ANSWER: Deny.

38. During a staff meeting on December 22, 2021, a new hire praised Plaintiff for all the help and support she extended during her first days at POST, to which Misselt responded by dismissing Plaintiff and saying "Whatever . . . Moving on . . . "

ANSWER: Deny.

39. On February 9, 2022, concerned members of the public organized a protest to demand justice for Amir Locke outside of POST's office, many of attendees and speakers were Black and POC mothers who lost their children to police violence. Plaintiff observed Misselt and other POST employees make statements such as "I will cut them up," "get your blades ready, we should all be prepared," "I have brass knuckles, I am ready to fight," "They will break the door out, get your guns ready."

ANSWER: POST lacks sufficient information or knowledge to admit or deny the first sentence and therefore denies. POST denies the remaining allegations.

40. Even after Plaintiff begged her coworkers to stop their discriminatory behavior, explaining that those were just mothers pleading for accountability, the comments continued, leaving Plaintiff feeling unsafe.

ANSWER: Deny.

41. On February 15, 2022, Plaintiff was approached by a white co-worker, who stated words to the effect of "Why is it called White Supremacy… I think it should just be called Supremacy?" The same day, Plaintiff again reported race discrimination to Misselt. She additionally filed a report with the Human Resources on February 18, 2022.

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ANSWER: POST lacks sufficient information or knowledge to admit or deny the first sentence and therefore denies. POST denies as vague the allegations that she "reported" and "filed a report."

42. Six years after first bringing attention to the discriminatory sentiments within the organization, POST, a state sponsored administrative body, failed to take any accountability for its discriminatory actions, let alone remedy the blatant discrimination and retaliation directed at Plaintiff. After the MDHR's finding of retaliation, Plaintiff was further dismissed, humiliated, ostracized, isolated, and treated like an inconvenience by her supervisors and colleagues.

ANSWER: Deny.

43. The ongoing, unbearable stress caused by the ongoing discrimination, subtle and overt anti-Black sentiment, and retaliation caused Plaintiff emotional distress as well as causing her to fear for her safety in the workplace. Thus, just like the Black OAS before her, Plaintiff had no choice but to leave her job at POST.

ANSWER: Deny.

44. On March 16, 2022, Plaintiff resigned from her employment stating that "[t]he past six years have repeatedly proved that the environment at the POST Board is that of an unhealthy and racist organization that refuses to treat people equally and promote change for the better [. . .] I believe the handwriting is on the wall, and I have no other choice but to leave [. . .] I am now unable to support the organization that I feel is at least partly responsible for the climate in which Black men have lost their lives at the hands of police."

ANSWER: POST admits Plaintiff resigned, refers to Plaintiff's resignation letter, and denies any allegations to the extent they are inconsistent with the letter.

CAUSES OF ACTION

COUNT I

RACE DISCRIMINATION IN VIOLATION OF THE MHRA MINN. STAT. § 363A.01, *et seq.*

45. Plaintiff re-alleges and incorporates the above paragraphs of this Complaint as if fully re-written herein.

ANSWER: POST incorporates its above answers.

46. Under Minn. Stat. § 363A.08, subd. 2 "it is an unfair employment practice for an employer, because of . . . race . . . to . . . (3) discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment."

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ANSWER: POST refers to the cited statute and denies any allegations to the extent they are inconsistent with the statute.

47. Defendant failed to take all reasonable steps to prevent discrimination based upon Plaintiff's race from occurring.

ANSWER: Deny.

48. By its conduct as laid out above, Defendant deprived Plaintiff of equal employment opportunities and otherwise adversely affected her status as an employee.

ANSWER: Deny.

49. By its actions as described above, Defendant discriminated against Plaintiff with respect to "hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment" because of her race in violation of Minn. Stat. § 363A.08.

ANSWER: Deny.

50. The unlawful employment practices complained above were intentional and were performed by Defendant with malice or reckless indifference to the MHRA, which protects Plaintiff.

ANSWER: Deny.

51. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and continues to suffer loss of income, emotional distress, and other damages in an amount in excess of $50,000.00.

ANSWER: Deny.

COUNT II

RACE DISCRIMINATION IN VIOLATION OF THE MHRA MINN. STAT. § 363A.01, *et. seq.* (HOSTILE WORK ENVIRONMENT)

52. Plaintiff re-alleges and incorporates the above paragraphs of this Complaint as if fully re-written herein.

ANSWER: POST incorporates its above answers.

53. Under Minn. Stat. § 363A.08, subd. 2 "it is an unfair employment practice for an employer, because of . . . race. . . to . . . (3) discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment."

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ANSWER: POST refers to the cited statute and denies any allegations to the extent they are inconsistent with the statute.

54. Defendant's conduct constitutes a violation of Minn. Stat. § 363A.08.

ANSWER: Deny.

55. Defendant failed to take all reasonable steps to prevent racially-hostile work environment, including unwelcome racial harassment from occurring.

ANSWER: Deny.

56. The racial harassment was severe and pervasive, making it difficult for Plaintiff to perform her job.

ANSWER: Deny.

57. By its conduct as laid out above, Defendant deprived Plaintiff of equal employment opportunities and otherwise adversely affected her status as an employee.

ANSWER: Deny.

58. By its actions as described above, Defendants discriminated against Plaintiff with respect to "hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment" because of her race in violation of Minn. Stat. § 363A.08.

ANSWER: Deny.

59. The unlawful employment practices complained above were intentional and were performed by Defendant with malice or reckless indifference to the MHRA, which protects Plaintiff.

ANSWER: Deny.

60. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and continues to suffer loss of income, emotional distress, and other damages in an amount in excess of $50,000.00.

ANSWER: Deny.

COUNT III

REPRISAL IN VIOLATION OF THE MHRA
MINN. STAT. § 363A.15

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61. Plaintiff re-alleges and incorporates the above paragraphs of this Complaint as if fully re-written herein.

ANSWER: POST incorporates its above answers.

62. The MHRA provides that it is an "unfair discriminatory practice for any individual . . . to intentionally engage in any reprisal against any person because that person . . . (1) opposed a practice forbidden under this chapter or has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter . . ." Minn. Stat. § 363A.15.

ANSWER: POST refers to the cited statute and denies any allegations to the extent they are inconsistent with the statute.

63. By her conduct as described above, Plaintiff engaged in activity protected by MHRA by making reports of race discrimination to Defendant.

ANSWER: POST incorporates its above denials regarding Plaintiff's conduct.

64. By their conduct as laid out above, Defendant engaged in reprisal in violation of Minn. Stat. § 363A.15.

ANSWER: Deny.

65. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and continues to suffer loss of income, emotional distress, and other damages in an amount in excess of $50,000.00.

ANSWER: Deny.

AFFIRMATIVE AND OTHER DEFENSES

Defendant alleges the following affirmative and other defenses.

1. The Complaint is barred in whole or in part by the statute of limitations.

2. The Complaint fails, in whole or in part, to state a claim upon which relief can be granted.

3. Defendant's conduct, as alleged, was not discriminatory, retaliatory, or otherwise unlawful. Defendant had legitimate, nondiscriminatory, nonretaliatory reasons for the actions that

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Plaintiff challenges and would have taken such actions absent any discriminatory or retaliatory motive, which Defendant expressly denies.

4. Plaintiff has failed, in whole or in part, to mitigate her damages.

5. The Complaint fails because Plaintiff did not suffer an adverse employment action.

6. Any action or inactions attributable to Defendant was not the direct or proximate cause of any damage to Plaintiff.

7. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

9. Defendant reserves any other available affirmative defense or objection.

WHEREFORE, Defendant respectfully requests that this Court: (1) dismiss Plaintiff's Complaint with prejudice and on the merits; (2) enter judgment in Defendant's favor with respect to all of the claims and causes of action set forth in the Complaint; (3) award Defendant's costs, reasonable attorney fees and disbursements; and (4) any other relief that the Court deems just and proper under these circumstances.

Dated: June 30, 2022

KEITH ELLISON
Attorney General
State of Minnesota

s/ Ian Taylor

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